# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/943,837 | 08/31/2001 | Semir S. Haddad | 01-S-016 (STMI01-00021) | 2810 |

| 30425          7590          12/27/2006 |
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| EXAMINER |
|---|
| DUNN, MISHAWN N |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2621 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 12/27/2006 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

PTOL-90A (Rev. 10/06)

| *Advisory Action* *Before the Filing of an Appeal Brief* | Application No. 09/943,837 | Applicant(s) HADDAD, SEMIR S. |
|---|---|---|
| | Examiner Mishawn N. Dunn | Art Unit 2621 | |

*--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

THE REPLY FILED <u>28 November 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>see attached rejection.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.

13. ☐ Other: _____.

## DETAILED ACTION

### *Response to Arguments*

1.      Applicant's arguments filed 11/28/2006 have been fully considered but they are

not persuasive.

2.      Applicant argues that Citta et al. does not teach or suggest that each of the

received packets is reformatted into a fixed-length packet having a header and payload,

where the header defines the payload as recited in Claim 1.

In response the Examiner respectfully disagrees. Citta et al. teaches fixed length

data packets having both a header and a payload (col. 1, lines 19-23; col. 2, lines 50-

62; col. 3, lines 19-29; figs. 3A, 3B). The PES of variable length packets are

compressed and reformatted into MPEG transport streams of 188 bytes (fixed). As

previously stated by the examiner (and the applicant, pg. 9), the specification (pgs. 7-8)

discloses that the header defines (identifies) the payload. Therefore, the combination of

Citta et al. and the specification, teach a fixed-length packet having a header and

payload, where the header defines the payload, in order to easier process the stream

data.

Applicant also argues that neither Applicant's admitted prior art nor Citta et al.

teach or suggest that the fixed sized of said at least one fixed-size program packets is a

multiple of a sector size of said storage disk as required by Claim 3. As asserted

previously, it is well known in the art for a storage disk, DVD or hard disk, to have

sectors. It is also possible for at least one-fixed-size program packet to be a multiple of

a sector of said storage disk. The Applicant requested that the Examiner provide

documentary supporting this. Nagai et al. (US Pat. No. 5,768,298) teaches writing a

plurality of packets in one sector (col. 2, lines 37-52). Klausberger et al. (US Pat. No.

7,027,712) discloses the same (col. 4, lines 20-48). Therefore, it would obvious to one

of ordinary skill in the art, to have at least one fixed-size program packets is a multiple

of a sector size of said storage disk, in order to simplify data processing.

Applicant also argues that neither Applicant's admitted prior art nor Citta et al.

teach or suggest that the header of each fixed-size packet defines **at least one of**

stream type, timing information, and picture information. As stated above, Citta et al.

discloses a fixed-sized packet, that is a reformatted disparate-sized PES packet, having

a header and a payload. Applicant's admitted prior art (pgs. 7-8) also discloses that the

"header includes presentation time stamp (PTS) field, a decoding time stamp (DTS)

field, an elementary stream clock reference (ESCR) field, a elementary stream (ES) rate

field, a DSM trick mode field, a copy information field, a prior PES clock recovery field,

an extension field, and stuffing bytes." Therefore, the combination of Citta et al. and the

Applicant's admitted prior art teaches that the header of each fixed-size packet defines

timing and picture information.

Applicant further argues that neither Applicant's admitted prior art nor Citta et al.

teach or suggest a digital video recorder, a storage disk and storing a fixed-size

program packet in a multiplexed program stream in the storage disk as required by

claims 6, 11, and 18. As presented above, Citta et al. teaches reformatting disparate-

sized PES packets. Applicant's admitted prior art discloses storing packets into a

multiplexed program stream (pgs. 2-4) in a storage disk. This is a form of compression

and if the data is to be reproduced (transmitted) from the storage disk, it would done in

a more efficient manner than if the packets were not stored into a multiplexed program

stream. Therefore, it would have been obvious one of ordinary skill in the art to store the

fixed-size program packet in a multiplexed program stream in the storage disk, in order

to efficiently compress and transmit the audio/video data.

The Examiner agrees that the motivation for combining the Applicant's admitted

prior art and Citta et al. was mistakenly incorrect. The combination of the Applicant's

admitted prior art and Citta et al. would decrease recording efficiency, but would result

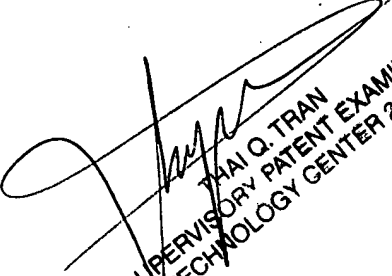in a less complex reproducing operation.


Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Mishawn N. Dunn whose telephone number is 571-272-

7635. The examiner can normally be reached on Monday - Friday 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Mishawn Dunn
December 18, 2006